UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,480	02/27/2002	Kazuyuki Miya	L9289.02130	3434

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EXAMINER
ISMAIL, SHAWKI SAIF

ART UNIT	PAPER NUMBER
2455	

MAIL DATE	DELIVERY MODE
03/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action *Before the Filing of an Appeal Brief*	Application No. *10/069,480*	Applicant(s) MIYA ET AL.
	Examiner SHAWKI S. ISMAIL	Art Unit 2455

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>23 February 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

       Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

       NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: <u>*NONE*</u>.

    Claim(s) objected to: <u>*NONE*</u>.

    Claim(s) rejected: <u>*38-50*</u>.

    Claim(s) withdrawn from consideration: <u>*NONE*</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

         /Shawki S Ismail/
          Examiner, Art Unit 2455

Continuation of 11. does NOT place the application in condition for allowance because: The applicant argues in substance that the Nakajima et al ACK/NAK fails to teach or provide any indication of packet's sequence number.

The examiner respectfully disagrees. ACK and NAK help identify errors in packets and are sent from the receiver to the sender to confirm proper reception of the data packet or not. A data packet is made of collection of data and a sequence number is used to distinguish between the different parts of the packet.

Nakajima teaches a sequence number and redundancy bits for detecting error are added to a data packet. First, N-th data packet is transmitted from the base station 101 to the mobile station 102. In the mobile station 102, presence of error is checked by using the redundancy bits for detecting and correcting error. When no error is found, as shown in FIG. 2, ACK (affirmative response) showing that the N-th data packet is received correctly is transmitted to the base station 101. The base station 101, when receiving ACK, transmits the next (N+1)-th data packet to the mobile station 102. In the second base station 102, checking error similarly, and if error is found, as shown in FIG. 2, NAK (negative response) showing that error is contained in the (N+1)-th data packet is transmitted to the first base station 101 (col. 1, lines 50-63)

ACK and NAK primary purpose is to alert or notify the source or sender of errors in a data packet. Sequence number help in identifying which data packet is received and which needs to be retransmitted. Therefore, Nakajima does provide an indication of packet sequence number, meets the scope of the claimed limitations and as such render the claims obvious..